

4) **the final fourth stage** consists of decision-making on the winner who will be appointed to the position.

A person is appointed to the position in public office by a special statement of the authorized body or by a contract. Under inauguration legislation of many countries a new civil servant takes an oath. In some countries the oath of a public servant is obligatory.

As far as the dismissal from the position is concerned most of scientists consider that the premature termination of powers is the most effective and at the same time the most radical way to influence the activities of the parliament, government, and president. The reasons for premature termination of powers include: 1) resignation by a personal statement; 2) demission; termination of citizenship; 3) breach of oath or violation of the laws of Ukraine; 4) death; 5) inability to perform duties.

Thus, the institution of premature termination of powers is an essential element of the system of checks and balances meant to prevent violations of constitutional laws.

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### **RIGHTS AND LEGAL INTERESTS PROTECTION IN THE PROCESS OF INTERROGATION AS A DEMOCRATIC INSTITUTE OF CRIMINAL PROCEDURE**

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Ukraine proclaimed itself as a democratic state. This status can be confirmed only in the process of implementation of democratic norms in the sphere of criminal proceedings. Democracy requires clear and definite order in criminal prosecution and interrogation in particular. And this order was provided for by the Criminal Procedure Code of Ukraine in 2012 year, but there are some problematic aspects of its implementation.

Article 3 of the Constitution of Ukraine contains the general rule – human rights and freedoms and their guarantees determine the essence and guidelines of the

State activities. The State is answerable to the individual for its activity. The main duty of the State is to affirm and ensure human rights and freedoms.

Interrogation is one of the most important parts of criminal proceedings and that is why the probability of rights violations is very high. The new Criminal Procedure Code provides for the new norms in our legal system which require deep scientific understanding of their proper practical application.

The first problematic aspect in the process of interrogation during pre-trial investigation is the time period of interrogation. According to Article 224 of the Criminal Procedure Code of Ukraine, interrogation may not last more than two hours without breaks, and in total should not exceed eight hours per day. The previous legislation did not contain such demand. At the same time, Article 226 sets features of the interrogation of minors: the length of the interrogation period of a child or an underage may not last more than one hour without breaks, in total, more than two hours per day. The time period certainty is very effective guarantee of ensuring rights and legal interests because it sets the limited period in which persons can be interrogated.

Next novel of the Criminal Procedure Code of Ukraine is the interrogation which is held by an investigating judge. On the exceptional basis, when it is necessary to obtain testimonies from a witness or a victim during pre-trial investigation, a party to criminal proceedings may file a motion to the investigating judge, if, there is a threat to witness's or victim's life and health, his/her serious illness, the existence of other circumstances that may make interviewing them in court impossible or affect the completeness or reliability of testimony. This rule is a very effective method of ensuring the principle of immediacy of evidence research, but it has some problematic moments. First of all, only witnesses or victims may be interrogated by the investigating judge. That is why, the rights of suspects and experts can be limited, because they cannot give testimony which will have the value of evidence in the similar circumstances. Therefore it is necessary to add a suspect and an expert to the list of subjects who can be interrogated by the investigating judge at the stage of pre-trial investigation.

Next controversial issue of interrogation during pre-trial investigation is synchronous interrogation. Article 224 of the Criminal Procedure Code of Ukraine envisages the possibility of participation of two or more persons. But this rule is wrong, because the amount of these persons becomes unlimited. It contradicts the essence of this type of interrogation. The significant disadvantage of the new procedure of interrogation during pre-trial investigation is that the rule of separate interrogation of persons applies only to witnesses. Article 224 says that "each witness shall be interrogated separately and in absence of other witnesses". But there is no information about interrogation of suspects and victims. This problem should be eliminated as soon as possible because it gives opportunity to the investigators to abuse their powers in the process of interrogation. That is why this part of Article 224 should be changed into "each person shall be interrogated separately and in absence of other persons".

Nowadays such sphere of criminal proceeding as international assistance

became important and popular. That is why videoconference is an effective method of ensuring the rights and legal interests of persons in the process of interrogation. This type of interrogation contributes to realization of the rights of persons who cannot give their testimonies, because they are far from the place of pre-trial investigation or can be endangered. The electronic database for the videoconference is the computer program Skype.

All these types of interrogation have their faults because of the imperfect legislation. Unfortunately, the officials of law-enforcement bodies do not realize the necessity of the changes.

So the research into all these complicated problems is very important for the development of Ukraine as a democratic state, which considers legal rights of persons as a highest social value.

## **DIFFERENCE BETWEEN ILLEGAL DEPRIVATION OF LIBERTY OR KIDNAPPING AND HOSTAGE-TAKING**

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The Universal Declaration of Human Rights, 1948, and the International Covenant on Civil and Political Rights, 1966, enshrined the key provisions according to which "everyone has the right to liberty and security of person" [2] and "no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law" [3]. Similar provisions are provided by the Constitution of Ukraine (art. 29). Moreover according to the Constitution (art. 33) everyone is guaranteed freedom of movement, free choice of residence, and the right to freely leave the territory of Ukraine except restrictions established by law [1].

Criminal law protection of these rights is provided by the Criminal Code of Ukraine, establishing liability for illegal deprivation of liberty or kidnapping (art. 146) and for hostage-taking (art. 147) [4].

The main object of the crime provided by art. 146 of the Criminal Code are protected by criminal law social relations, ensuring personal freedom, which includes free choice of person behavior and freedom of movement. Facultative objects can be life of a person, health, property, education and normal development of a child etc.

Illegal deprivation of liberty and kidnapping should be considered as separate crimes, because they differ in the peculiarities of actus reus and the degree of social danger. Illegal deprivation of liberty consists in the illicit restriction of free choice of residence or freedom of movement. It can have its expression in the detention a victim in a place where he/she does not want to stay longer or which he/she is unable to leave freely.

Kidnapping can be committed only in the form of active behavior and provides a set of consistently exerted actions: open or secret capture of a person, moving a